IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Second Appeal No. 753 of 2001
(Old No. 441 of 1986)

M.D. Kandpal
S/o Shri Hari Datt Kandpal
R/o Kandpal Bhawan
Royal Hotel Compound, Mallital
Nainital .....Plaintiff/
Appellant

Vs

Municipal Board,
Nainital ...Defendant /
Respondent

Sri Prakash Bisht, learned counsel for the appellant
Sri D.S. Patni, learned counsel for the respondent

Hon'ble B.C. Kandpal, J.

This second appeal has been preferred by the appellant against the judgment and decree dated 05.04.1986 passed by Civil Judge, Nainital in Civil Appeal No. 118 of 1984 arising out of the judgment and decree dated 29.11.1984 passed by Munsif, Nainital in Original Suit No. 29 of 1982 M.D. Kandpal Vs Municipal.

2. Brief facts of the case are that the plaintiff/appellant filed a suit before the Munsif, Nainital for permanent injunction which was dismissed vide judgment and decree dated 29.11.1984.

3. Feeling aggrieved by the aforesaid judgment, the plaintiff/appellant preferred an appeal before the first appellate court which was also dismissed vide judgment and decree dated 05.04.1986.

4. Feeling aggrieved by the aforesaid judgments and decree, this second appeal has been preferred by the plaintiff/appellant.

5. Having considered the arguments advanced by the learned counsel for the appellant and after perusal of the evidence on record, I am of the view that, this second appeal is concluded by concurrent finding of facts, I, therefore, do not find any ground to interfere in the impugned judgments and orders passed by the courts below. Both the courts below have recorded concurrent finding of fact which cannot be interfered at the stage of second appeal. I also do not find any substantial question of law involved in this case.

6. The second appeal lacks merit and is liable to be dismissed.

7. Accordingly, the second appeal is dismissed in-limine.

(B.C. Kandpal, J.)

28.11.2006
ASWAL